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Legal Representatives for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation  
Against:

ARDIE RAY CONNOLLY  
1859 Heller Lane  
Redding, CA 96001

Respiratory Care Practitioner License No. 18082

Respondent.

Case No. R-1955

**FIRST AMENDED  
ACCUSATION**

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 7, 1995, the Respiratory Care Board issued Respiratory Care Practitioner License Number 18082 to Ardie Ray Connolly (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2007, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Respiratory Care Board (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section references are  
4 to the Business and Professions Code unless otherwise indicated.

5 4. Section 3710 of the Code states: "The Respiratory Care Board of  
6 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,  
7 the Respiratory Care Practice Act]."

8 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and  
9 revoke licenses to practice respiratory care as provided in this chapter."

10 6. Section 3750 of the Code states:

11 "The board may order the denial, suspension or revocation of, or the imposition of  
12 probationary conditions upon, a license issued under this chapter, for any of the following  
13 causes:

14 "(f) Negligence in his or her practice as a respiratory care practitioner.

15 "(g) Conviction of a violation of any of the provisions of this chapter or of any  
16 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
17 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
18 violate any provision or term of this chapter or of any provision of Division 2 (commencing  
19 with Section 500).

20 "(o) Incompetence in his or her practice as a respiratory care practitioner."

21 COST RECOVERY

22 7. Section 3753.5, subdivision (a) of the Code states:

23 "In any order issued in resolution of a disciplinary proceeding before the board, the  
24 board or the administrative law judge may direct any practitioner or applicant found to have committed  
25 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and  
26 prosecution of the case."

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8. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

9. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

FIRST CAUSE FOR DISCIPLINE

(Negligence)

10. Respondent is subject to disciplinary action under section 3750(f) [negligence] in that he acted negligently in delivering patient care. The circumstances are as follows:

11. From approximately 1996 through 2004, respondent worked at Sutter Roseville Medical Center (SRMH) as a respiratory care practitioner. On February 10, 2004, Tamra Kelly, Operations Manager at SRMH, filed a Mandatory Reporting Form stating that respondent was terminated from employment on February 9, 2004 for falsification of medical records, gross incompetence or negligence, and patient neglect regarding the following patients:

PATIENT A. (MR #11-66-83)

12. On or about November 8, 2003, Dr. J.M. ordered an electrocardiogram (EKG) for Patient A., a 96 year old female patient, to ascertain if she was in congestive heart failure. Respondent performed an EKG but listed the patient's medical record number, birth date and account number incorrectly. After completing the procedure, he handed the EKG results to the treating physician but did not verify the information.

PATIENT B. (MR #47-63-72)

13. On or about December 17, 2003, Patient B., a 51 year old female with a history of advanced chronic obstructive pulmonary disease (COPD) presented to the Emergency Room via ambulance with COPD exacerbation and respiratory failure. While in the ambulance, a

breathing tube was inserted in her windpipe to protect her airway. She wore oxygen at home via nasal cannula. While at SRMH, a tracheostomy was placed. On January 8, 2004, Dr. L. ordered a Passy-Muir valve trial for Patient B. Prior to placing the valve, the patient must be able to effectively swallow. SRMH policy and procedure states that a speech language pathologist and respiratory care practitioner work together to place the valve. The speech language pathologist, L.G., requested respondent's assistance. L.G. asked respondent if he had previously performed a Passy-Muir evaluation. He stated that he had not, but could do it. When she asked if he would prefer another therapist more familiar with the procedure to take over, respondent stated no. Patient B. appeared anxious and uncomfortable, and L.G. was concerned that respondent's lack of experience and demeanor would affect the patient's performance and the outcome. L.G. noted that respondent appeared irritated and unfamiliar with the procedure, and she had to direct him to suction the patient prior to the evaluation and administer oxygen. She directed respondent to obtain a suction catheter, among other tasks. Respondent failed to chart that he had performed the procedure. The patient could not phonate and failed the test. L.G. requested that the physician reduce the trach size of the patient after the test.

14. Respondent's license is subject to discipline in that he acted negligently in entering inaccurate patient identification for Patient A's EKG, and was negligent in failing to properly assist the speech language pathologist and failing to chart the Passy-Muir evaluation for Patient B.

## SECOND CAUSE FOR DISCIPLINE

(Incompetence)

15. Paragraphs 12 through 14 are incorporated herein.

16. Respondent is subject to disciplinary action under section 3750(o) [incompetence] in that he displayed a lack of knowledge and skill when he undertook to perform the Passy-Muir evaluation when he was not qualified to do so.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number RCP 18082, issued to Ardie Ray Connolly.
2. Ordering Ardie Ray Connolly to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: August 17, 2007

Original signed by Liane Zimmerman for:  
STEPHANIE NÚÑEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant